

LABORERS COMBINED FUNDS OF)	CIVIL ACTION NO. 22-1013
WESTERN PENNSYLVANIA,)	
)	JUDGE JOY FLOWERS CONTI
Plaintiff,)	
)	
)	
v.)	
)	
VALLEY FLAGGING SERVICE LLC)	
)	
Defendant.)	

MEMORANDUM OPINION

Pending before the court is a motion to alter judgment and re-assess damages (ECF No. 22) filed by plaintiff Laborers Combined Funds of Western Pennsylvania (the “Funds”). The court ordered Defendant Valley Flagging Service LLC (“Valley Flagging”), who is represented by counsel in this case, to respond to the motion by June 7, 2023 (ECF No. 23). Valley Flagging did not file a response.

The Funds initiated this litigation by filing a complaint on July 12, 2022 (ECF No. 1). The complaint alleged that Valley Flagging failed to submit its required monthly remittance reports and failed to comply with the Funds’ demands for documentation. The complaint sought broad relief, as follows:

- a. a preliminary and/or permanent injunction enjoining Defendant Contractor from violating the terms of such Agreements and directing Defendant Contractor to make immediate payment of all monies past due and timely payments of all monies to become due to Plaintiff Funds pursuant to such Agreements, and enjoining Defendant Contractor from disposing of assets;
- b. for Defendant Contractor to be required to file complete and accurate remittance reports with Plaintiff Funds covering all aspects of such Defendant’s business operations through the present;
- c. for Defendant Contractor to present for audit, inspection and/or copying all payroll, unemployment compensation, tax and other records pertaining to hours worked by such Defendant Contractor’s covered employees through the present, in order to enable Plaintiff Funds to verify the accuracy of the amounts paid and/or due and owing by Defendant to the Plaintiff Funds;
- d. for an Order requiring Defendant Contractor to comply with the findings

of the resulting audit, including payment of any delinquent contributions that are determined by the audit to have been retained by the Defendant Contractor, in the sum of whatever delinquent principle amount Plaintiff's audit determines is owed once it has concluded, plus such additional amounts shown to be owed to Plaintiff Funds until termination of this case, plus additional interest at the rate of one and one quarter percent (1.25%) per month; plus late charges/liquidated damages of ten percent (10%); plus attorneys' fees of twenty percent (20%) of total amount due; plus costs of suit;

e. for the Court to retain jurisdiction of the case pending compliance with its orders;

f. for the Court to award Plaintiff's attorneys' fees and costs, as authorized by the Agreements and ERISA, and;

g. for such other and further relief as the Court may deem just and proper.

(ECF No. 1 at 5-6).

Valley Flagging did not respond to the complaint. On August 19, 2022, the clerk entered default (ECF No. 6). On August 31, 2022, the Funds filed its first motion for default judgment (ECF No. 7). The court set a hearing on the motion, which was continued after counsel entered an appearance on behalf of Valley Flagging (ECF Nos. 10, 12) and the parties engaged in negotiations. On February 28, 2023, the Funds filed a motion for counsel fees (ECF No. 17).

On March 28, 2023, the court held a hearing on the Funds' motions for default judgment and counsel fees. At the hearing, counsel reported they reached a settlement in which the court would administratively close the case, subject to disputes about enforcing the settlement, and the parties would submit a proposed order for judgment (ECF No. 19). On March 29, 2023, the court entered judgment in favor of the Funds and against Valley Flagging in the amount of \$14,511.00 (the agreed amount of counsel fees).

In the motion to amend judgment, the Funds report that the audit has been completed. For the period July 5, 2021 to December 31, 2022, the Funds concluded that Valley Flagging owed a total of \$296,533.00. The motion and supporting documents set forth the amounts of principal, late charges, interest, counsel fees and costs claimed by the Funds. In addition, the auditors discovered a wage deficiency in the amount of \$29,988.18. The motion requests that the

original judgment be altered and re-entered in the amount of \$296,533.00.

Valley Flagging was given an opportunity to respond to the motion. It failed to do so. The relief requested by the Funds is within the scope of the complaint and entry of default in this case. The court, accordingly, will grant the motion to alter judgment and re-assess damages (ECF No. 22) and will enter an amended default judgment in favor of Plaintiff LABORERS COMBINED FUNDS OF WESTERN PENNSYLVANIA and against Defendant VALLEY FLAGGING SERVICE LLC, in the amount of \$296,533.00.

An appropriate order and amended judgment will be entered.

Dated: July 12, 2023

/s/ Joy Flowers Conti

Joy Flowers Conti
Senior United States District Judge